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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,549	01/07/2000	E. MICHAEL ACKLEY, JR.	2280.2470	3198

5514 7590 12/31/2001

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NEW YORK, NY 10112

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 12/31/2001

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/479549

Applicant(s)

ACKLEY, JP.

Examiner

S. WEINSTEIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 9/27/01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-4, 9-12 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-4, 9-12 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1761

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ream et al (WO'075) in view of Redford et al (WO '884) or vice versa, both further in view of Yamamoto et al ('252) and Krubert ('273).

In regard to claim 1, Ream et al discloses a method of forming multiple images in substantial registration on shaped edible pieces (e.g. chewing gum, taffy, gummy candy, etc.) comprising printing an image on a shaped edible piece to form a printed piece at a first printing station, transporting the printed piece to a second printing station and printing a second image on said printed piece while maintaining the images registered. For example, Ream et al discloses "printing in register with one another" (page 3), "the multiple colors are in registration with one another" (page 4), etc. Claim 1 also recites maintaining a registering relationship of said printed piece from said first printing station to said second printing station by applying a pressure differential to a portion of the printed piece to maintain the printed piece in set position in a transporting recess. Ream et al teaches transporting the shaped pieces in a transporting recess or depression (page 14). Although Ream et al discloses that the shaped pieces could be adjusted to insure registration for registered printing, Ream et al also discloses that a vacuum system could

Art Unit: 1761

also provided inside the printing apparatus which not only could be used to remove starch but also to function as a means to help hold down the shaped pieces. It would appear therefore that in the embodiment in Ream et al wherein vacuum is provided, that the printed piece would be maintained in a set position and Ream et al would anticipate claim 1. In any case, Ream et al has been applied under 35 U.S.C. 103 not 35 U.S.C. 102, erring on the side of caution. Note that the recitation pressure differential is a broad term and does exclude a differential mechanical pressure; i.e., some type of physical/mechanical hold down clamp positioned above the shaped pieces. In any case, assuming applicants can make a convincing showing why Ream et al does not anticipate claim 1, Redford et al can be relied on to teach that when one desires to process shaped edibles on which two coordinated processes are to be performed on the edible pieces in a registered or precise fashion, it was well established in the art to transport the pieces from one station to the other station wherein a differential pressure is applied to maintain the pieces in a set position in a transporting recess. To modify Ream et al, if Ream et al does not maintain the vacuum so the pieces are set, would therefore have been obvious. Similarity, it would have been obvious to modify Redford et al and substitute two printing stations for a printing and etching station as taught by Ream et al. since both teach conventional methods of providing an image in two steps. Yamamoto et al is relied on as previously as further evidence of fixing a shaped edible in a recess in a moving surface during printing and Krubert is relied on as further evidence of multicolor printing.

Art Unit: 1761

Claims 1-4 and 9-12 are rejected under 35 U.S.C. 102(e)/ 35 USC 103 as being unpatentable over Ackley ('876) in view of Redford et al, further in view of Ream et al, Yamamoto et al, and Krubert.

Ackley discloses a method of forming multiple images including moving shaped edible pieces from one printing station to a second printing station and providing mechanical means to maintain the pieces in a set position so that the images are registered. Claim 1 differs from Ackley in applying differential pressure. Redford et al can be relied on as above to teach the use of differential pressure when two operations are to be performed in registration. To modify Ackley and substitute one conventional means to set pieces for another conventional means to set pieces is seen to have been obvious. Ream et al, Yamamoto et al and Krubert are relied on as above as further evidence of differential pressure application and multiple image printing.

All of applicants' remarks filed 9/27/01, Paper No. 11 have been fully and carefully considered but are not found to be convincing. On page 6, and further on in the amendment, applicants are urging limitations not found in the claims. It is urged that the invention prints multicolor images but the claims are silent as to multicolor images. The claims only recite images. It is also urged that different parameters are involved in printing on shaped pieces vs. flat pieces. This distinction is also not made in the claims. A preformed slab of chewing gum is a shaped piece. That is, the chewing gum has been shaped to impart a slab shape. Note, however, that even if the claims were amended to impart some curved or non planar shape to the shaped piece, applicants are not the first to print on curved pieces and they are not the first to

Art Unit: 1761

perform a dual operation on curved pieces. Note too, that although Ream et al discloses slabs of bubble gum, Ream et al also discloses gummy candy, taffy, etc., which are not necessarily slab shaped and usually not slab shaped. It is also urged that printing on edibles is fundamentally different from printing on non-edibles. Not only is this only an opinion, but all of the references applied are directed to edibles. It is urged that Redford et al does not teach or suggest using the vacuum to hold pieces between two printing stations. If Redford et al had taught this, the rejection would have been under 35 U.S.C. 102, anticipation, instead of 35 U.S.C. 103, obviousness. Redford et al is not applied alone but in combination under 35 103. On page 8 of the amendment, applicants are further urging limitations not found in the claims. The claims do not recite tablets. Note, too, that even tablets can have flat surfaces. In any case, Redford et al teaches a method of moving tablets in evacuated recesses between two stations that perform operations on tablets which require registration. On page 10 of the amendment, it is urged that Redford et al does not print an image. This is incorrect. Redford et al, for example, on page 5 discloses that the printing station prints a graphic symbol (or a geometric shaped). A graphic symbol is an image. It is not necessary for Redford et al to print two images for the rejection to be proper. Printing two images are taught e.g. by Ream et al. Redford et al prints a graphic symbol or geometric shape and then eliminates some of the printing to etch e.g. a word. The printing and the etching would have to be registered in order to center the indicia and this is the function of the differential pressure.

Art Unit: 1761

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Weinstein whose telephone number is (703) 308-0650. The examiner can normally be reached on Monday to Friday from 7:00 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Application/Control Number: 09/479,549

Page 7

Art Unit: 1761

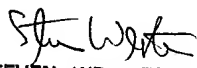
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Weinstein:mv

December 13, 2001

12/17/01

Corrected - December 28, 2001

  
STEVEN WEINSTEIN  
PRIMARY EXAMINER  
ART UNIT 132 1761  
12/30/01